

August 31, 2017

SUBMITTED ELECTRONICALLY

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
(202) 566-1667

Re: Freedom of Information Act Request for Records Relating to the Paris Agreement

Dear National Freedom of Information Officer:

Environmental Defense Fund (“EDF”) respectfully requests records, as that term is described at 5 U.S.C. § 552(f)(2) of the Freedom of Information Act (“FOIA”), of the U.S. Environmental Protection Agency (“EPA” or the “Agency”), related to the Paris Agreement to the United Nations Framework Convention on Climate Change (“Paris Agreement”). Specifically, EDF requests correspondence relating to the Paris Agreement and/or United Nations Framework Convention on Climate Change that was sent to or by any person or entity outside of the Executive Branch of the Federal Government. EDF requests records that were produced, modified, or transmitted between January 20, 2017 and the date EPA searches for responsive records.

Correspondence may be responsive to this request regardless of whether it references U.S. participation in or withdrawal from the Paris Agreement. For example, and without limiting any other aspect of this request, such correspondence may relate to:

- 1) U.S. laws, regulations, or policies that reflect or address the U.S. relationship to the Paris Agreement and/or the United Nations Framework Convention on Climate Change;
- 2) the Rose Garden event at which the President made his announcement that the U.S. would withdraw from the Paris Agreement; or
- 3) the efforts or authority of non-Federal entities (such as states, businesses, etc.) to help achieve the goals of the Paris Agreement and/or the United States’ nationally determined contribution (NDC).

For this request, EDF respectfully requests that EPA search the records of the following individuals:

- Erik Baptist,
- Don Benton,
- Brittany Bolen,
- Byron Brown,
- Samantha Dravis,
- Doug Ericksen,
- Mandy Gunasekara,
- Ryan Jackson,
- David Kreutzer,
- Charles Munoz,
- E. Scott Pruitt,
- David Schnare,
- Justin Schwab,
- George Sugiyama, and
- Ken Wagner.

The requested records specifically include, but are not limited to, hard-copy correspondence and electronic correspondence such as emails, voice mails, text messages, and correspondence transmitted through any other electronic platform. This request specifically includes any attachments to responsive records.

If any of the information sought in this request is deemed by EPA to be properly withheld under a FOIA exemption, 5 U.S.C. § 552(b), please provide EDF with an explanation, for each such record or portion thereof, sufficient to identify the record and the particular exemption(s) claimed.

Request for Expedited Processing

EDF respectfully seeks expedited processing pursuant to 5 U.S.C. § 552(a)(6)(E)(i) and 40 C.F.R. § 2.104(e)(1)(ii), which applies when there is “[a]n urgency to inform the public about an actual or alleged Federal government activity, if the information is requested by a person primarily engaged in disseminating information to the public.” With respect to five other FOIA requests, EPA recently recognized EDF’s eligibility for expedited processing on this basis.¹ In support of this request for expedited processing, I certify that the following information is true and correct to the best of my knowledge and belief:

- (1) EDF engages in extensive, daily efforts to inform the public about matters involving environmental policy, including the Paris Agreement. For example, EDF has multiple channels for distributing information to the public, including through direct

¹ See Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-003545 (Feb. 23, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-005587 (Apr. 12, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-008622 (July 7, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009283 (July 13, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009579 (July 26, 2017).

communication with its more than 2 million members, press releases, blog posts, active engagement on social media, and frequent appearances by staff in major media outlets.²

- (2) In a June 1, 2017 event in the White House Rose Garden, President Trump announced that “the United States will withdraw from the Paris Climate Accord.”³
- (3) Administrator Pruitt spoke at the Rose Garden event and was a high-profile defender of the President’s decision to withdraw from the Paris Agreement.⁴ Moreover, reports suggest that Administrator Pruitt actively promoted withdrawal in deliberations within the Administration.⁵ The Rose Garden event was also attended by several non-governmental stakeholders who vocally opposed the Paris Agreement.⁶
- (4) Important questions about the Paris Agreement have yet to be resolved. It is still unclear precisely what steps the U.S. may take to implement the President’s decision. It is also unclear whether the Administration will take a position on states or municipalities joining the Paris Agreement or taking other action to fulfill the Paris Agreement’s terms.⁷ The President has also raised the possibility of renegotiating the Paris Agreement or reconsidering the U.S. position.⁸
- (5) On August 4, 2017, the State Department submitted a communication to the United Nations stating the U.S. intention to withdraw from the Paris Agreement. The State Department simultaneously noted that “the President . . . is open to re-engaging in the Paris Agreement if the United States can identify terms that are more favorable.”⁹ In November 2017, the United Nations Framework Convention on Climate Change will

² See, e.g., EDF President Fred Krupp, *President Trump’s Paris Decision Will Live in Infamy*, N.Y. Daily News (June 1, 2017), <http://www.nydailynews.com/opinion/president-trump-paris-decision-live-infamy-article-1.3213220>; EDF Vice President Nathaniel Keohane, *Trump Just Walked Away from a Great Deal on Climate*, Forbes (June 1, 2017), <https://www.forbes.com/sites/edfenergyexchange/2017/06/01/trump-just-walked-away-from-a-great-deal-on-climate/#548e53d51df7>; Keith Gaby, *The 3 Most Flagrant Falsehoods from Trump’s Climate Speech*, EDF Voices Blog (June 2, 2017), <https://www.edf.org/blog/2017/06/02/3-most-flagrant-falsehoods-trumps-climate-speech>.

³ White House Office of the Press Secretary, *Statement by President Trump on the Paris Climate Accord* (June 1, 2017), <https://www.whitehouse.gov/the-press-office/2017/06/01/statement-president-trump-paris-climate-accord>.

⁴ See EPA, *Administrator Scott Pruitt Speech on Paris Accord, as Prepared* (June 1, 2017), <https://www.epa.gov/speeches/administrator-scott-pruitt-speech-paris-accord-prepared>; Paige Winfield Cunningham, *EPA Head Scott Pruitt Defends Paris Exit*, Wash. Post (June 4, 2017), https://www.washingtonpost.com/news/powerpost/wp/2017/06/04/epa-head-scott-pruitt-defends-paris-exit/?utm_term=.0dade356a5cc.

⁵ See Juliet Eilperin & Brady Dennis, *Scott Pruitt, Outspoken and Forceful, Moves to the Center of Power within the Trump Administration*, Wash. Post (June 2, 2017), https://www.washingtonpost.com/politics/scott-pruitt-outspoken-and-forceful-moves-to-the-center-of-power-within-the-trump-administration/2017/06/02/a1b4d298-46fa-11e7-a196-a1bb629f64cb_story.html; Alex Guillén, *EPA’s Pruitt Basks in Trump Glow after Paris Pullout*, Politico (June 2, 2017), <http://www.politico.com/story/2017/06/02/scott-pruitt-donald-trump-paris-climate-change-agreement-239086>.

⁶ Eric Wolff & Darius Dixon, *Paris Deal Foes to Attend Trump’s Climate Announcement*, Politico (June 1, 2017), <http://www.politico.com/story/2017/06/01/trump-climate-announcement-attendees-239025>.

⁷ See generally Cong. Research Serv., *Constitutional Limits on States’ Effort to ‘Uphold’ the Paris Agreement* (June 27, 2017), <https://fas.org/sgp/crs/misc/uphold.pdf>.

⁸ See *Statement by President Trump*, *supra* note 3; Jabeen Bhatti et al., *Trump: ‘Something Could Happen’ on Paris Climate Agreement*, U.S.A. Today (July 13, 2017), <https://www.usatoday.com/story/news/2017/07/13/president-trump-paris/474703001/>.

⁹ U.S. Dep’t of State, Press Release, *Communication Regarding Intent to Withdraw from Paris Agreement* (Aug. 4, 2017), <https://www.state.gov/r/pa/prs/ps/2017/08/273050.htm>.

hold the 23rd Conference of the Parties “to advance the aims and ambitions of the Paris Agreement and achieve progress on its implementation guidelines.”¹⁰ The U.S. will participate in that conference.¹¹

- (6) Given Administrator Pruitt’s integral role in the Administration’s position on the Paris Agreement—and the Administration’s continuing activities relating to the Agreement—it is vital that the public understand who is corresponding with the Agency on this topic. The public cannot predict the timing or content of the Administration’s next pertinent action or decision. This request requires expedited processing to ensure that the public is able to participate in a rapidly evolving and significant domestic and international policy issue, with a full understanding of the outside groups attempting to influence EPA.

Request for Fee Waiver

As a non-partisan, non-profit organization that provides information that is in the public interest, EDF respectfully requests a waiver of fees associated with this request. We are not seeking information for any commercial purpose and the records received will contribute to a greater public understanding of an issue of considerable public interest: U.S. participation in a global agreement to combat the most dire environmental threat of our time. 5 U.S.C. § 552(a)(4)(A)(iii). EDF is well positioned to disseminate the records to the public, as we routinely issue press releases, action alerts, reports, analyses, and other public outreach materials. We fully intend to disseminate newsworthy information received in response to this request. EPA has recognized EDF’s eligibility for a fee waiver with respect to other recent FOIA requests.¹² Accordingly, we respectfully request that the documents be furnished without charge.

For ease of administration and to conserve resources, we will accept documents produced in a readily accessible electronic format. In the event EDF’s request for a fee waiver is denied or if you have any questions about this request, please contact me immediately by telephone at (202) 572-3318 or by email at blevitan@edf.org.

Respectfully submitted,

Benjamin Levitan
Environmental Defense Fund
1875 Connecticut Avenue, NW
Suite 600
Washington, DC 20009

¹⁰ United Nations Framework Convention on Climate Change, *COP23 Information Hub Overview*, <http://newsroom.unfccc.int/cop23bonninformationhub/cop23-information-hub-overview/> (last visited Aug. 16, 2017).

¹¹ See U.S. Dep’t of State, *supra* note 9.

¹² See Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-005587 (Apr. 12, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-008622 (July 7, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009283 (July 19, 2017); Letter from Larry F. Gottesman (EPA) to Benjamin Levitan (EDF) re: Request Tracking Number EPA-HQ-2017-009579 (July 26, 2017).